



Local Government Standards Panel

Complaint Number	20240515
Legislation	<i>Local Government Act 1995</i>
Complainant	Mayor Peter Carter
Respondent	Councillor Lorraine Butson
Local Government	Town of Port Hedland
Regulation	Regulation 17, Regulation 18, Regulation 19 of the <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members	Mr Tim Fraser (Presiding Member) Mrs Emma Power (Member) Cr Peter Rogers (Member)
Heard	19 December 2024 Determined on the documents
Finding	1 x Breach Regulation 17

FINDING AND REASONS FOR FINDING Delivered 20 March 2025

DEFAMATION CAUTION

The general law of defamation, as modified by the *Defamation Act 2005*, applies to the further release or publication of all or part of this document or its contents. Accordingly, appropriate caution should be exercised when considering the further dissemination and the method of retention of this document and its contents.



Summary of the Panel's decision

1. On 19 December 2024, the Panel found that Councillor Lorraine Butson a councillor of the Town of Port Hedland (**"the Town"**):
 - a. did commit a minor breach pursuant to the *Local Government Act 1995 (WA)* (**"the Act"**) and Division 4 and Regulation 17 of the *Local Government (Model Code of Conduct) Regulations 2021* (**"the Regulations"**);
 - b. did not commit a minor breach pursuant to the Act and Division 4 and Regulation 18 of the Regulations; and
 - c. did not commit a minor breach pursuant to the Act and Division 4 and Regulation 19 of the Regulations,when she was involved in arranging an event relating to the opening of the Spoil bank Marina as further set out in paragraph 17 below.

The Panel's Role

2. Under section 5.110(2) of the Act the Panel is required to consider a minor breach complaint and make a finding as to whether the alleged minor breach occurred.
3. The Act and the *Local Government (Administration) Regulations 1996* provide for the circumstances in which a council member commits a minor breach.
4. Section 5.105(1) of the Act provides that a council or committee member commits a minor breach if the council or committee member contravenes a rule of conduct. Division 4 of the Regulations sets out the rules of conduct for council members and candidates.
5. Regulation 34D of the *Local Government (Administration) Regulations 1996* also provides that the contravention of a "*local law as to conduct*" is a minor breach pursuant to the Act.
6. The Panel may make a finding that a councillor has committed a minor breach of the Act and Regulations based on evidence from which it may be concluded that it is more likely that the alleged breach occurred than it did not occur.¹
7. In order to find a breach, it must be established that each element of the relevant Regulation is more likely than not to have been breached or met.
8. In considering whether a minor breach is established the Panel must consider:
 - a. all evidence provided and, where there are conflicting circumstances, inferences or evidence, must come to a reasonable conclusion that any circumstance, inference or evidence relied upon is more likely than not to have occurred or be accurate²; and

¹ Section 5.106 of the Act

² *Bradshaw v McEwans Pty Ltd* (1951) 217 ALR 1



- b. the seriousness of any allegation made, as well as the gravity of the consequences flowing from a particular finding³.
- 9. The Panel does not possess investigative or supervisory powers.⁴ The Panel makes decisions about complaints regarding minor breaches solely upon the evidence presented to it and, where appropriate, materials in the public domain or published by the relevant local authority's website.
- 10. It is the responsibility of both complainants and respondents to provide the Panel with all information they wish the Panel to consider when making its determination.
- 11. The Panel also must have regard to the general interests of local government in Western Australia⁵.
- 12. The Panel is obliged to give notice of the reasons for any finding it makes under section 5.110(2) of the Act.

Jurisdiction and Procedural Fairness

- 13. On 8 November 2024 the Panel received a complaint from Mr Stephen Leeson acting as complaints officer of the Town ("**the Complaints Officer**"). The same enclosed a Complaint of Minor Breach Form dated 5 November 2024.
- 14. In the complaint form, the Complainant alleges that Cr Butson has breached:
 - a. regulation 17 of the Regulations when she used the logo of the Town without permission ("**Allegation 1**"); and
 - b. regulation 18 of the Regulations ("**Allegation 2**") and regulation 19 of the Regulations ("**Allegation 3**") when she was involved in the organisation of an event relating to the opening of the Spoil bank Marina,as further referred to in paragraph 17 below ("**the Complaint**").
- 15. The Panel convened on 19 December 2024 to consider the Complaint.
- 16. The Panel:
 - a. accepted the advice of the Department of Local Government, Sport and Cultural Industries ("**the Department**") that, based on information published on the Western Australian Electoral Commission's website, Cr Butson was:
 - i. elected to the Council of the Town in October 2023 for a term expiring in October 2027; and
 - ii. a Councillor when the Panel met on 19 December 2024;
 - b. was satisfied the Complaint was made within six months after the alleged breach occurred⁶;

³ Briginshaw v Briginshaw (1938) 60 CLR 336

⁴ Re and Local Government Standards Panel [2015] WASC 51 (at paragraph 24)

⁵ Section 8(6) of Schedule 5.1 of the Act

⁶ Section 5.107(4) and 5.109(2) of the Act



- c. was satisfied that the Town's Complaints Officer had dealt with the Complaint in accordance with the administrative requirements in the Act for dealing with complaints of a minor breach⁷;
- d. was satisfied the Department had provided procedural fairness to Cr Butson; and
- e. found it had jurisdiction to consider the Complaint.

The Specifics of the Complaint

17. The Complainant provided the following comments and arguments in respect to the Complaint as summarised by the Panel:
- a. Cr Lorraine Butson is a Councillor at the Town of Port Hedland. The Town is partnered with the Western Australian State Government and plan to open the Port Hedland Marina on 29 November 2024.
 - b. Without the endorsement or decision of Council Cr Butson is improperly used her position of Councillor to promote a dinner & cocktail function coinciding and celebrating the opening of the Marina. This is a ticketed event.
 - c. The Complainant has been informed by the owner of the local hotel, that they are donating food and providing the alcohol for the event. He has also stated this it was his impression this was a fundraiser.
 - d. The Complainant is concerned that there is no transparency or guarantee regarding the identity of the financial beneficiary of this event.
 - e. Cr Butson is also interfering in the administrative responsibility of Local Government, the Town of Port Hedland, which has the responsibility to facilitate and promote the opening of the Marina. Her actions deliberately create an impression this is a sponsored event and by her association as a Councillor/organiser creates the perception this is a Council sponsored event which is not.
 - f. The Marina is a \$187M investment and a major development landmark for Port Hedland.
 - g. Cr Butson advertised the event on the social media platform Everything Hedland on 17 October 2024.
 - h. The issue is Cr Butson has failed to declare her intention to Council. At no time has she canvassed the proposal. Given there is a ticketed event it is incumbent on her as an elected official to declare any conflict or financial interest given it coincides and is planned to occur on the day of the opening of the Marina opening.
18. The Complainant also provided the following additional information:

⁷ Section 5.107 and 5.109 of the Act

- a. Screenshot of the invitation/flyer to the Gala evening as follows:



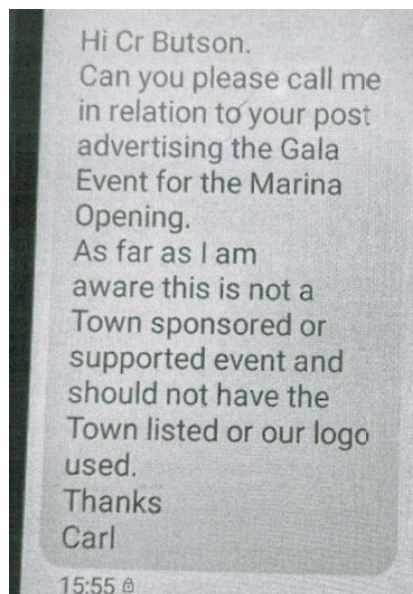
(*“the Flyer”*).

- b. Facebook Comment relating to the Flyer.

The Respondent's Response

19. By an email dated 29 November 2024, Cr Butson provided a response to the Complaint.
20. Cr Butson denies that she had made any minor breach.
21. Cr Butson provided the following comments and arguments regarding the Complaint as summarised by the Panel:
- This event was purely a suggestion by an executive to Cr Butson's communication (which was in response to a text message from the CEO that a community group be held responsible for the organisation of the celebration in relation to the Port Hedland Marina opening.). At no time was it a confirmed event but it was raised for determining costs and public support.
 - Cr Butson at no time promoted the event as a councillor.
 - The Community group proceeded to ascertain the possibility of the event. Cr Butson had no input with the exception of a Facebook share.

- d. The letter from public relations outlining the Gala dinner (dated 9/03/2024) was unacceptable with relation to the letter quoted in approaching as indicated in the breach. This was long before Cr Butson's advice to the CEO.
 - e. It appears that the breaches are the result of councillor comments prior to the confirmation obtained from the Chief Executive Officer ("**CEO**").
 - f. Cr Butson can find no affirmative decision by herself after this clarification from the text message received from the CEO on 17 October 2024.
22. Cr Butson also provided the following supporting documentation:
- a. Email dated 9 March 2024 from Manager Public Affairs to Cr Butson regarding planned events for the Pilbara Port/Marina opening;
 - b. Email dated 4 September 2024 between Manager Public Affairs to Cr Butson regarding availability of a venue;
 - c. Email dated 9 October 2024 from Manager Public Affairs to Cr Butson regarding dates delay;
 - d. Tax Invoice dated 8 November 2024 for hire of venue;
 - e. Email dated 9 December 2024 from the CEO to Cr Butson regarding advising Council of the plans for a Gala Dinner;
 - f. Image of text message from the CEO to Cr Butson as follows:



- g. Copy of updated Flyer with Town of Port Hedland logo removed.
- h. Email dated 21 October 2024 from Cr Butson to the CEO acknowledging removal of the Town logo.



PANEL'S CONSIDERATION

REGULATION 17

23. Regulation 17 prohibits the use of government resources in certain circumstances and provides as follows:

“ 17. Misuse of local government resources

(1) In this clause —

electoral purpose means the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the Electoral Act 1907 or the Commonwealth Electoral Act 1918;

resources of a local government includes —

(a) local government property; and

(b) services provided, or paid for, by a local government.

(2) A council member must not, directly or indirectly, use the resources of a local government for an electoral purpose or other purpose unless authorised under the Act, or by the local government or the CEO, to use the resources for that purpose.”

24. To find a breach of Regulation 17 the Panel must be satisfied that it is more likely than it is not that:
- the resource used was a “local government resource”; and
 - Cr Butson directly or indirectly used such local government’s resources for an identified electoral purpose or any other purpose; and
 - such purpose was not authorised under the Act or by the council or the Town’s CEO.

Panel Consideration - Allegation 1 – Regulation 17

The resource was a “local government resource”

25. The term ‘resource’ is not defined in the Regulations or in the Act. However, the term ‘*local government property*’ is defined in section 1.4 of the Act to mean “*anything, whether land or not, that belongs to, or is vested in, or under the care, control or management of, the local government*”.
26. The noun ‘resource’ is relevantly defined in The Macquarie Dictionary (5th ed, 2009) at page 1408 as “*(Often plural) Money or any property which can be converted into money; assets*”.

27. The noun “asset” is defined in The Macquarie Dictionary as “*a useful thing or quality*” and “*an item of property; an economic resource*”.⁸
28. The resource asserted to be used in this case is the logo of the Town.
29. Any Town of Port Hedland logo (or similar identifying branding or crest) is without question intellectual property that belongs to the Town.
30. The Panel finds, to the required standard that the logo of the Town is a resource of the Town.
31. This element is met.

Cr Butson directly or indirectly used a government resource for an electoral or other purpose

32. The term 'use' is relevantly defined in the Macquarie Dictionary Online (as at 14 December 2021) as:
 - a. to employ for some purpose; put into service; turn to account: *use a knife to cut; use a new method*; and
 - b. to avail oneself of; apply to one's own purposes: *use the front room for a conference*.
33. It is established from the evidence provided that:
 - a. the original Flyer did include a copy of the Town's logo and the words “Sponsored by” ;
 - b. the CEO contacted Cr Butson to confirm that the Gala evening was not sponsored by or affiliated with the Town and the logo should be removed from the Flyer; and
 - c. following the communication from the CEO, Cr Butson arranged for the Flyer to be updated by the removal of the logo.
34. As to whether Cr Butson was the party that “used” the logo, in her response Cr Butson asserts that she had no input to the event with the exception of a Facebook share.
35. This appears to be inaccurate given the correspondence between the Town's administrative staff and Cr Butson as to holding an evening event, arranging a venue and the request to raise the matter with Council as a whole.
36. Further, the CEO directly requested Cr Butson to remove the logo from the Flyer and she explicitly actioned that request.
37. The various correspondence appears to establish that it was understood that Cr Butson was substantially involved in, if not responsible for, the relevant event.
38. As such the Panel finds that it is more likely than not this Cr Butson used, or was responsible for the use of, the logo.

⁸ *Yates and Local Government Standards Panel [2012] WASAT 23 at [30] – [37]*



39. Given the image of the original Flyer clearly includes the Town logo, the Panel finds to the required standard that the logo of the Town was “used” for “any other purpose” by its inclusion.

40. This element is met.

The purpose was not authorised under the Act or by the council or the Shire’s CEO

41. In this case it is established by the correspondence from the CEO that the use of the Town’s logo was not authorised.
42. Further, there is no evidence supplied that the use of the logo was approved by Council.
43. Given the above, the Panel finds that there was no permission by the Council or the CEO for Cr Butson to use the Town’s logo in the Flyer.

44. This element is met.

Conclusion

45. The elements required to find a breach of regulation 17 of the Regulations have been met.

REGULATION 18

46. Regulation 18 prohibits councillors engaging in conduct to either gain an advantage for themselves (or another party) or cause detriment to another party and specifically provides as follows:

“ 18. Securing personal advantage or disadvantaging others

(1) A council member must not make improper use of their office —

(a) to gain, directly or indirectly, an advantage for the council member or any other person; or

(b) to cause detriment to the local government or any other person.

(2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or The Criminal Code section 83.”

47. To make a finding of a minor breach of regulation 18 of the Regulations the Panel must be satisfied to the required standard that:
- a. Cr Butson was an elected member at the time of the alleged breach and the time of the determination;
 - b. Cr Butson made use of her office as Council member of the Town;
 - c. when viewed objectively, such use was an improper use of Cr Butson’s office in that it:
 - i. involved a breach of the standards of conduct that would be expected of a person in the position of councillor by reasonable persons; and



- ii. was so wrongful and inappropriate in the circumstances that it calls for the imposition of a penalty; and
- d. Either:
 - i. In respect to regulation 18(1)(a) Cr Butson engaged in the conduct with the intention of gaining an advantage for herself or another party.
 - ii. In respect to regulation 18(1)(b) Cr Butson engaged in the conduct in the belief that detriment would be suffered by another person.

Panel Consideration - Allegation 2 - Regulation 18

Cr Butson was an Elected Member or a Candidate at the relevant times

- 48. Cr Butson was an elected member at the time of the alleged breach and at the date the Panel considered the Complaint.
- 49. This element is met.

Cr Butson made use of her office as Council Member of the Town

- 50. Cr Butson has asserted that she:
 - a. at no time promoted the event as a councillor; and
 - b. had no input to the event with the exception of a Facebook share.
- 51. The Panel does not accept this argument as:
 - a. Cr Butson appears to be the primary point of contact with the Shire as to:
 - i. the organisation of the event; and
 - ii. the hiring of the venue;
 - b. Cr Butson used her councillor email for all communications;
 - c. the administrative staff, particularly the CEO, flagged that Cr Butson should advise other councillors of the event and her involvement with the same; and
 - d. Cr Butson at no time clarified in her correspondence with the Town that she was acting on behalf of a community group, not as a councillor.
- 52. Further, the Marina related to a matter of importance to the local community, and it would be reasonable (and usual) for a local councillor to be involved in related community and local government events.
- 53. Due to the above, the Panel finds that it is more likely than not that Cr Butson was acting in her capacity as an elected member and made use of her office as a council member when undertaking the alleged conduct.
- 54. This element is met.

Cr Butson's use was improper



55. Deciding if conduct is an improper use of office requires something more than simply a demonstration of poor judgment or lack of wisdom. It requires an abuse of power or the use of the councillor's position in a manner that such councillor knew (or ought to have known) was not authorised.
56. Impropriety does not depend on a councillor's consciousness of impropriety. It is to be judged objectively and does not involve an element of intent.
57. Any decision as to what is "improper" cannot be made in isolation but must be considered in the relevant context including the specifics of the relevant event as well as councillor's formal role and responsibilities.
58. In the case of impropriety arising from an abuse of power, a councillor's alleged knowledge or means of knowledge of the circumstances in which the power is exercised and his or her purpose or intention in exercising the power will be important factors in determining whether the power has been abused⁹.
59. The Complainant has alleged that Cr Butson has acted improperly as:
 - a. there was no transparency or guarantee regarding the identity of the financial beneficiary of the event; and
 - b. she failed to declare her intention to Council in particular to declare any conflict or financial interest due to the event coinciding with the official Marina opening.
60. The Panel firstly comments that there is nothing inherently improper in a local councillor arranging (or substantially assisting a community group with arranging) an event which, although not a formal council event, coincides with an event or undertaking organised or funded by the local government.
61. Although it would be courteous to inform other councillors and the administration as to a planned event which may relate to a significant community event, in the absence of a formal adopted policy, there is no general requirement for a councillor to seek permission from Council, or to inform Council as to any such possible event.
62. In respect to the transparency of any financial beneficiary of the event on the Flyer, there has been no evidence supplied as to who any beneficiary may have been or whether any beneficiary may have been disclosed in an alternative manner. In the absence of this information, the Panel cannot make any finding as to whether any improper conduct occurred.
63. As to whether Cr Butson should have made any declaration of a conflict of interest or financial interest the Complaint as not alleged on what basis Cr Butson had a conflict of interest or financial interest.
64. This allegation appears to be based purely on speculation.

⁹ Treby and Local Government Standards Panel [2010] WASAT 81 (at 31); *Chew v The Queen* (1992) 173 CLR 626 (at 640 - 641 [Dawson JJ]); *R v Byrnes* (1995) 183 CLR 501 – (at 514 - 515 [Brennan, Deane, Toohey and Gaudron JJ] and at 521 [McHugh J]).

65. If the allegation is that Cr Butson did not properly declare an “impartiality interest”, then the appropriate regulation under which to make a complaint is regulation 22 of the Regulations.
66. If the allegation is that Cr Butson did not make an appropriate financial interest declaration, by virtue of regulation 22(3) of the Regulations the Panel is not empowered consider this kind of breach of the Act.
67. Due to the above the Panel finds that it is more likely that not that Cr Butson did not act improperly with respect to her involvement with the arranging of the relevant event.
68. This element is not met.

Regulation 18(1)(a) Cr Butson intended to gain an advantage

69. The definitions of the noun ‘advantage’ in the Shorter Oxford English Dictionary (6th ed) include: a favouring circumstance; something which gives one a better position, benefit; increased well-being or convenience or pecuniary profit.
70. The Panel considers the term ‘advantage’ in regulation 18(1)(a) is to be construed widely, and includes a financial or a non-financial benefit, gain or profit, or any state, circumstance, opportunity or means specially favourable.¹⁰
71. It is not necessary to find whether any advantage actually gained¹¹ but an intent to gain such advantage must be established.
72. The Complainant has not made any allegation of any advantage that was being sought by arranging the relevant event.
73. This element is not met.

Regulation 18(1)(b) Cr Butson intended to cause a disadvantage

74. “Detriment” means loss, damage or injury. It is construed widely and includes financial and non-financial loss and adverse treatment, such as humiliation, denigration, intimidation, harassment, discrimination and disadvantage.
75. It is not necessary to find whether any detriment was actually suffered, but an intent to cause such detriment must be established.
76. The Complainant has not made any allegation as to any disadvantage that was being sought by arranging the relevant event.
77. If it is intended to be implied that Cr Butson caused a detriment to the local government by arranging a conflicting event, the Panel does not consider that Cr Butson’s intent can reasonably be said to be to disadvantage the Town, but rather to support the local community.

¹⁰ Complaint SP 12 and 13 of 2011

¹¹ *Yates and Local Government Standards Panel* [2012] WASAT 59 at [72]



78. In any event, it is clear from the correspondence supplied that the event was supported by the Town in principle and was intended to be *“integrated into the Town’s wider community celebration”*.
79. This element is not met.

Conclusion

80. The elements required to find a breach of regulation 18 of the Regulations have not been met.

REGULATION 19

81. Regulation 19 prohibits councillors engaging in conduct that is intended to be undertaken by the administration of a local government and specifically provides as follows:

“9. Prohibition against involvement in administration

- (1) A person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the local government or by the CEO to undertake that task.*
 - (2) Sub regulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.”*
82. To make a finding of a minor breach of regulation 19 of the Regulations the Panel must be satisfied that:
- a. Cr Butson was a councillor at the time of the alleged breach and at the time the determination was made;
 - b. it is more likely than not that:
 - i. Cr Butson took on, or was involved in, or participated in, the performance, attempted performance, or part performance of a function or responsibility under which the Act or by delegation it is for the local government’s CEO to perform or direct;
 - ii. such taking on, involvement or participation contributed something to the administration of the local government;
 - iii. such taking on, involvement or participation was not done as part of the deliberations at a council meeting; and
 - iv. the Council or CEO did not authorise such taking on, involvement or participation¹².

¹² Yates and Local Government Standards Panel [2012] WASAT 59



Allegation 3 – Regulation 19 - Panel Consideration of Elements of Breach

Cr Butson was a Councillor at the relevant times

83. Cr Butson was a councillor at the time of the alleged breach and at the time the Panel considered the Complaint.
84. This element is met.

Did Cr Butson on the performance of an administrative function of the Shire

85. The Act distinguishes between the roles of council and the staff employed by the local government, or the “administration”. Local governments are bodies corporate of which the Council is the governing body.
86. A council discharges its role by formulating policy and overseeing the performance of a local government's functions. The day to day management of a local government is entrusted to the CEO¹³.
87. The role of the Council therefore includes making local laws, overseeing the allocation of the local government's finances and resources and determining its policies. The role of individual councillors is to represent the interests of electors, ratepayers and residents of the district. The administration advises councillors to assist in their decision-making and implements policies determined by Council and Council's other decisions.
88. In this case there is nothing provided that indicates that the relevant event was:
- a. initiated due to a decision of Council; or
 - b. intended to be arranged by the Town,
- but rather was at all times intended to be an independent event.
89. As such, it cannot reasonably be argued that Cr Butson took on any administrative role, as there was no administrative role of the Town to be undertaken in this case.
90. Given the above, the Panel finds it is more likely than not that Cr Butson did not take on, involve herself with or undertake an administrative function of the Shire in arranging the relevant event.
91. This element is not met.

Other elements

92. As the above element cannot be met, the Panel has not considered the further elements of this Regulation here.

Conclusion

93. The elements required to find a breach of regulation 19 of the Regulations have not been met.

¹³ *Town of Cambridge v The Hon David Templeman MLA, Minister for Local Government; Heritage; Culture and the Arts [2020] WASC 350 - Tottle J at 91*



PANEL'S FINDINGS

- 94. Cr Butson did commit a breach of Regulation 17 of the Regulations and therefore did commit a minor breach.
- 95. Cr Butson did not commit a breach of Regulation 18 of the Regulations and therefore did not commit a minor breach.
- 96. Cr Butson did not commit a breach of Regulation 19 of the Regulations and therefore did not commit a minor breach.

Signing

Tim Fraser (Presiding Member)

Emma Power (Member)

Peter Rogers (Member)



Local Government Standards Panel

Complaint Number	20240515
Legislation	<i>Local Government Act 1995 (WA)</i>
Complainant	Mayor Peter Carter
Respondent	Councillor Lorraine Butson
Local Government	Town of Port Hedland
Regulation	Regulation 17 <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members for	Ms Emma Power (Presiding Member)
Penalty Consideration	Mr Ethan Redshaw (Member) Cr Peter Rogers (Member)
Heard	19 December 2024 Determined on the documents
Penalty Considered	5 May 2025
Outcome	Public Apology

DECISION AND REASONS FOR DECISION

Delivered 17 June 2025

DEFAMATION CAUTION

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Introduction

1. At its meeting on 19 December 2024, the Panel found that Councillor Lorraine Butson, a councillor of the Town of Port Hedland (“**the Town**”), committed a minor breach under the *Local Government Act 1995* (WA) (“**the Act**”) and regulation 17 of Division 4 of the *Local Government (Model Code of Conduct) Regulations 2021* (“**the Regulations**”) when she used the Town’s logo, being a resource of the Town, when arranging an event relating to the opening of the Spoil Bank Marina (“**the Minor Breach**”).

Jurisdiction and Law

2. The Panel convened on 5 May 2025 to consider how it should deal with the Minor Breach.
3. The Panel accepted the advice of the Department of Local Government, Sport and Cultural Industries (“**the Department**”) that on this date there was no available information to indicate that Cr Butson had ceased to be, or was disqualified from being, a councillor.
4. If the Panel finds that a councillor has committed a minor breach, it must give the councillor an opportunity to make submissions to the Panel about how it should deal with the breach under section 5.110(6).¹
5. By a letter dated 20 March 2025, Cr Butson was:
 - a. notified of the Panel’s finding of the Minor Breach;
 - b. provided with a copy of the Panel’s Finding and Reasons for Finding; and
 - c. offered an opportunity to make submissions as to how the Minor Breach should be dealt with under section 5.110(6) of the Act.

Possible Sanctions

6. Section 5.110(6) of the *Local Government Act 1995* (WA) (“**the Act**”) provides that the Panel is to deal with a minor breach by:
 - (a) *ordering that no sanction be imposed; or*
 - (b) *ordering that —*
 - (i) *the person against whom the complaint was made be publicly censured as specified in the order;*
or
 - (ii) *the person against whom the complaint was made apologise publicly as specified in the order;*
or
 - (iii) *the person against whom the complaint was made undertake training as specified in the order;*
or

¹ *Local Government Act 1995* (WA), s 5.110(5).



- (iv) *the person against whom the complaint was made pay to the local government specified in the order an amount equal to the amount of remuneration and allowances payable by the local government in relation to the complaint under Schedule 5.1 clause 9;*
- or*
- (c) *ordering 2 or more of the sanctions described in paragraph (b).*

Cr Butson's Submissions

7. By an email dated 6 April 2025 the Department received a response Cr Butson noting she did omit to erase the logo.

Panel's Consideration

8. Section 5.110(6) is solely about penalty. The Panel does not have the power to review any finding of a breach.
9. The Panel may order under section 5.110(6)(a), that no sanction be imposed, not to reverse the Panel's finding of a breach, but to indicate that in all the circumstances the relevant councillor should not be penalised further.
10. Guidance as to the factors which the Panel may consider in determining the appropriate penalty to impose include, but are not limited to, the following:
 - a. the nature and seriousness of the breaches;
 - b. the councillor's motivation for the contravention;
 - c. whether or not the councillor has shown any insight and remorse into his/her conduct;
 - d. whether the councillor has breached the Act knowingly or carelessly;
 - e. the councillor's disciplinary history;
 - f. likelihood or not of the councillor committing further breaches of the Act;
 - g. personal circumstances at the time of conduct, and of imposing the sanction;
 - h. need to protect the public through general deterrence and maintain public confidence in local government; and
 - i. any other matters which may be regarded as aggravating conduct or mitigating its seriousness².
11. The Panel considers that in this case the conduct is on the lower end of seriousness.
12. The Panel is further satisfied that Cr Butson is unlikely to re-offend in a similar a manner in the future.
13. The Panel considers that a public apology is the appropriate sanction in the circumstances.

² Chief Executive Officer, Department of Local Government and Communities and Scaffidi [2017] WASAT 67 (S)



14. Making a public apology is a significant sanction, being a personal admission by the individual of wrongdoing³. It is a suitable and appropriate penalty when a councillor's conduct:
 - a. adversely affects particular individuals⁴; and/or
 - b. does not meet the standards other councillors seek to uphold.
15. In the relevant circumstances, the Panel considers that making a public apology is an adequate sanction and that it is not necessary to make an order in accordance with Schedule 5.1 clause 9 of the Act that Cr Butson recoup to the Town the costs of the Department incurred with respect to the Complaint.

Panel's decision

16. The Panel orders pursuant to section 5.110(6)(b)(ii) of the Act that, in relation to the one breach of regulation 17 of the Regulations, Cr Butson make a public apology in terms of the attached Order.

Signing

Ethan Redshaw (Deputy Member)

Emma Power (Member)

Peter Rogers (Member)

³ *Treby and Local Government Standards Panel* [2010] WASAT 81 (Pritchard J).

⁴ *Treby and Local Government Standards Panel* [2010] WASAT 81 [127] (Pritchard J).



ORDER

Delivered 17 June 2025

DEFAMATION CAUTION

The general law of defamation, as modified by the *Defamation Act 2005 (WA)*, applies to the further release or publication of all or part of this document or its contents. Accordingly, appropriate caution should be exercised when considering the further dissemination and the method of retention of this document and its contents

THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor Lorraine Butson, a councillor for the Town of Port Hedland **publicly apologise** as specified in paragraph 3; OR
2. Failing compliance with paragraph 3 within the specified timeframe, then paragraph 4 shall apply.

Public Apology

3. On the ordinary council meeting of the Town of Port Hedland first occurring after the expiration of **28 days** from the date of service of this Order on Councillor Lorraine Butson shall:
 - i. attend the relevant ordinary council meeting;
 - ii. ask the presiding person, or acting presiding person, for his or her permission to address the meeting to make a public apology to the public;
 - iii. make the apology immediately after Public Question Time or during the Announcements part of the meeting, or at any other time when the meeting is open to the public, as the presiding person thinks fit; and
 - iv. address the Council and public as follows, without saying any introductory words before the address, and without making any comments or statement after the address:

"I advise this meeting that:

- i. A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened Regulation 17 of the *Local Government (Model Code of Conduct) Regulations 2021*, when I used the Town of Port Hedland's logo in respect to advertising an event which was not held by, or sponsored by, the Town.
- ii. The Panel found that I breached Regulation 17 by my conduct.
- iii. I acknowledge that I should have not used the logo and I now apologise to the public and my fellow councillors."



4. If Councillor Lorraine Butson fails to, or is unable to, comply with the requirements of paragraph 3 above in the required time frame THEN, within the next **28 days** following the ordinary council meeting referred to in paragraph 3 above the Chief Executive Officer of the Town of Port Hedland shall arrange for the notice of public apology to be published:
- on the Facebook Page of the Town of Port Hedland shall in no less than 10 point font size; and
 - in an appropriate place on the website of the Town of Port Hedland shall in no less than 10 point font size; and
 - in the next occurring issue of any Town of Port Hedland shall public newsletter (if any) whether in electronic or print copy) in no less than 10 point font size.

PUBLIC APOLOGY BY COUNCILLOR LORRAINE BUTSON

A complaint was made to the Local Government Standards Panel, in which it was alleged that I contravened Regulation 17 of the *Local Government (Model Code of Conduct) Regulations 2021*, when I used the Town of Port Hedland's logo in respect to advertising an event which was not held by, or sponsored by, the Town.

The Panel found that I breached Regulation 17 by my conduct.

I acknowledge that I should have not used the logo and I now apologise to the public and my fellow councillors.

Appeal

5. In the event that, prior to the date for compliance with the above Orders, Councillor Lorraine Butson:
- commences an appeal the decision of the Standards Panel to the State Administrative Tribunal in accordance with section 5.125 of the *Local Government Act 1995*; and
 - notifies the Complaints Officer of such appeal in writing,
- THEN:
- compliance with the above Orders may be delayed until the State Administrative Tribunal has made a finding in respect to the decision; and
 - such Orders may be amended by an order of the State Administrative Tribunal.



NOTICE TO THE PARTIES TO THE COMPLAINT

RIGHT TO HAVE PANEL DECISION REVIEWED BY THE STATE ADMINISTRATIVE TRIBUNAL

The Local Government Standards Panel (the Panel) advises:

- (1) Under section 5.125 of the *Local Government Act 1995* the person making a complaint **and** the person complained about each have the right to apply to the State Administrative Tribunal (the SAT) for a review of the Panel's decision in this matter. In this context, the term "decision" means a decision to dismiss the complaint or to make an order.
- (2) By rule 9(a) of the *State Administrative Tribunal Rules 2004*, subject to those rules an application to the SAT under its review jurisdiction **must be made within 28 days** of the day on which the Panel (as the decision-maker) gives a notice [see the Note below] under the *State Administrative Tribunal Act 2004* (SAT Act), section 20(1).
- (3) The Panel's ***Breach Findings and these Findings and Reasons for Finding – Sanctions***, constitute the Panel's notice (i.e. the decision-maker's notice) given under the SAT Act, section 20(1).

Note:

- (1) This document may be given to a person in any of the ways provided for by sections 75 and 76 of the *Interpretation Act 1984*. [see s. 9.50 of the *Local Government Act 1995*]
- (2) Subsections 75(1) and (2) of the *Interpretation Act 1984* read:
 - "(1) Where a written law authorises or requires a document to be served by post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, **service shall be deemed** to be effected by properly addressing and posting (by pre-paid post) the document as a letter to the last known address of the person to be served, and, **unless the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.** [Bold emphases added]
 - (2) Where a written law authorises or requires a document to be served by registered post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified mail."
- (3) Section 76 of the *Interpretation Act 1984* reads:

"Where a written law authorises or requires a document to be served, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served —

 - (a) by delivering the document to him personally; or
 - (b) by post in accordance with section 75(1); or
 - (c) by leaving it for him at his usual or last known place of abode, or if he is a principal of a business, at his usual or last known place of business; or



- (d) *in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the State."*